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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/261,209	03/03/1999	PETER D. KARABINIS	027575-212	7458

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EXAMINER

HOM, SHICK C

ART UNIT

PAPER NUMBER

2666

DATE MAILED: 12/03/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/261,209

Applicant(s)

KARABINIS ET AL.

Examiner

Shick C Hom

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 05 September 2002.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-58 is/are pending in the application.
- 4a) Of the above claim(s) 1-46 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 47-58 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

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## **DETAILED ACTION**

### ***Response to Arguments***

1. Applicant's arguments filed 9/5/02 have been fully considered but they are not persuasive.

In response to applicant's argument that the examiner's conclusion of obviousness is based upon improper hindsight reasoning, it must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so long as it takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only from the applicant's disclosure, such a reconstruction is proper. See *In re McLaughlin*, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971).

### ***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been

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obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made. This application currently names joint inventors. In

considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103<sup>®</sup> and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

3. Claims 47-58 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ziv et al. in view of Hannah et al.

Ziv et al. disclose nearly all the subject matter now claimed. Note col. 1 lines 35-42 which recite a multiple access technique whereby mobile telephone system users, each having a transceiver, communicate through satellite repeaters using CDMA spread spectrum communication signals and col. 5 lines 26-42 which recite modulating the Walsh chips with user-specific PN sequence generator which are split into two signals, one of which

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is modulated with an in-phase I channel PN sequence and one of which is modulated with a quadrature-phase Q channel PN sequence wherein both the I channel modulation and the Q channel modulation provide four PN chips per Walsh chip wherein the I and the Q modulated data are Offset Quadrature Phase Shift Keying OQPSK combined for transmission clearly anticipate the communication system between mobile telephone and satellite relay station comprising a transmitter and receiver over RF channel using linearly modulated signal bursts as in claims 47, 51, 55, and said linearly modulated signal being OQPSK signal as in claims 49, 53, 57. Further, col. 1 lines 17-34 which recite that these multiple access techniques include time division multiple access (TDMA), frequency division multiple access (FDMA), and code division multiple access (CDMA) are well known clearly anticipate the signal bursts being TDMA signal bursts as in claims 50, 54, and 58.

Ziv et al. did not teach the step of transmitting constant envelop modulated signal bursts from the mobile to the satellite relay station over an uplink RF channel as in claims 47, 51, and 55, and said constant envelop modulated signal bursts being GMSK modulated signal as in claims 48, 52, and 56.

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Hannah et al. teach that it is known to provide a method for generating and transmitting a modulated carrier signal to a satellite including the step of generating a modulated data signal having an envelope of constant amplitude as set forth at col. 2 lines 43-58 in the field of telecommunications for the purpose of an increase in operational efficiency, a reduction in overall size and a reduction in DC power consumption by the unit, which substantially lowers the cost of the unit which clearly anticipate the step of transmitting constant envelop modulated signal bursts from the mobile to the satellite relay station over an uplink RF channel as in claims 47, 51, and 55. Further, col. 6 lines 23-34 which recite the modulation scheme utilized to generate the modulated data signal creating a signal having a constant envelope amplitude so as to allow for the use of a saturated amplifier whereby a minimum shift keying MSK technique is utilized to modulate the data signals clearly anticipate said constant envelop modulated signal bursts being GMSK modulated signal as in claims 48, 52, and 56.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the step of transmitting constant envelop modulated signal bursts from the mobile to the satellite relay station over an uplink RF channel

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and said constant envelop modulated signal bursts being GMSK modulated signal as taught by Hannah et al. to the system of Ziv et al. because Hannah et al. teach the desirable advantage of providing an increase in operational efficiency, a reduction in overall size and a reduction in DC power consumption by the unit, which substantially lowers the cost of the unit and said lower cost of the unit being desirable to achieve more cost efficient system operation in Ziv et al.

#### ***Conclusion***

4. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the

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statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

5. Any response to this final action should be mailed to:

Box AF

Commissioner of Patents and Trademarks  
Washington, D.C. 20231

or faxed to:

(703) 872-9314, (for formal communications; please  
mark "EXPEDITED PROCEDURE")

Or:

(for informal or draft communications, please  
label "PROPOSED" or "DRAFT")

Hand-delivered responses should be brought to Crystal  
Park II, 2121 Crystal Drive, Arlington. VA., Sixth  
Floor (Receptionist).



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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Shick Hom whose telephone number is (703) 305-4742. The examiner's regular work schedule is Monday to Friday from 8:00 am to 5:30 pm EST and out of office on alternate Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Seema Rao, can be reached at (703) 308-5463.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Technology Center 2600 Customer Service Office whose telephone number is (703) 306-0377.



DANSTON  
PATENT EXAMINER

SH

December 1, 2002